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HB 375 RELATING TO CHEMICAL CONTAMINATION OF WATER RESOURCES

Statement for
House Committee on
Health

20 February 1987

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HB 375 would authorize the director of health to establish interim action levels for contaminants in drinking water for which federal standards have not been established. Such interim standards would be required as soon as practicable and within 90 days after confirmation of the presence of the contaminant in drinking water. The statement on this bill does not reflect an institutional position of the University of Hawaii.

We recognize the need for the department of health to have clear authority to protect the public from unacceptable exposures to chemical contaminants. However there are several points in this bill which may need attention if the bill is to achieve the intended purpose.

HRS 340E-

(a) The provisions of the bill would apply only to those contaminants "that may present an unacceptable health risk to the public and for which maximum contamination levels have not been established by the U.S. Environmental Protection Agency". This limitation is probably appropriate since it will avoid notification requirements for constituents such as disinfectants or fluorides.

The requirement for the director to establish interim action levels, within 90 days, for the contaminants that do not have maximum contamination levels established by EPA may be difficult to achieve. It is likely that if no levels have been established by EPA then little technical information is available upon which to base an interim action level. Furthermore the bill mandates in paragraph (b) that the EPA risk assessment guidelines "shall be utilized to determine health risks from a chemical contaminant". We suggest that this may be too restrictive. Other creditable sources and organizations such as the World Health Organization or the American Public

Health Association may have pertinent data which should be available to decision makers. We suggest that the bill be amended to provide for the use of "other creditable sources of information" in addition to that available from EPA in determining the health risks from a chemical contaminant.

The bill requires the director to take into consideration the costs of treatment or alternate remedial actions when establishing an interim action level. The rationale for this provision is unclear. Presumably the purpose of the legislation is to protect community health and provide a mechanism for responsible notification of the department of health and the public in the event of a health risk related to contaminated water supplies. The "costs of treatment or alternate remedial actions" while certainly important from an administrative response and management perspective, would seem to have little bearing on the establishment of interim action levels responsive to health risks.

(c) The draft risk assessment document used to determine the interim action level is to be distributed to government and private institutions for review and comment. This requirement seems unduly broad. We suggest that either specific agencies or institutions be named or that the required distribution be limited to government agencies or private institutions with special expertise in this field and that the risk assessment report be made available to other interested parties by request only.

(d) The requirement that the director issue orders requiring the provision of alternative water supplies by persons who caused or contributed to the contamination may not be enforceable. Because many of the water quality contamination problems are the result of long term or prior chemical uses which are no longer practiced, identification of the contributors may be difficult if not impossible on any reasonable time schedule. While it is appropriate for the director to have the authority to require restitution at some level, be it alternative water supplies or clean up systems, it should be recognized that other sources of funds for the necessary clean up will likely be required.

HRS 340E- Notification of contamination of underground sources of drinking water and other sources of public drinking water.

(a) This section of the bill would require suppliers of water to notify the department in writing, of any previously "unconfirmed chemical contamination of any underground sources of drinking water or other sources of public drinking water supply within seven days of confirmation of the presence of a contaminant." We find this sentence rather confusing. We assume that the primary intent of the provision is to require suppliers of water to notify the department of confirmed chemical contaminants. Unconfirmed contaminants, if they are from the same system should also be of interest to the department, hence notification of their presence may also be appropriate. We suggest that oral notification of the department, as soon as contaminants are confirmed, should also be required.

(b) As presently drafted both the director and the affected water supplier would be responsible for notifying the public of chemical contaminants. This seems unwise as the potential for public confusion with multiple sources for announcements of such major social concern as the contamination of water supplies seems better left to the lead agency of the state rather than including a private water supplier. If you concur, the addition of a comma after the word "media" on page 6 line 3, and deletion of the comma after "supplier" in the next line may be sufficient to clarify the responsibilities.

A similar confusion between reporting of unconfirmed and confirmed contaminants occurs in this paragraph and the possible need for oral notification as was cited in paragraph (a) above.